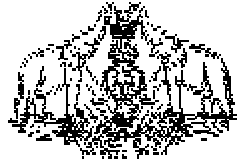


Kerala Gazette No. 51 dated 25th December 2007.

PART I

Section i



GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 22380/Leg.Pbn.4/07/Law. *Dated, Thiruvananthapuram, 11th October 2007.*

The following Act of Parliament, Published in the Gazette of India, Extraordinary, Part II, Section I, dated the 29th May, 2007 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 28th May, 2007.

By order of the Governor,

P. S. GOPINATHAN,
Law Secretary.

G 1026/2007/DTP.

THE ELECTRICITY (AMENDMENT) ACT, 2007

(ACT No. 26 OF 2007)

AN

ACT

further to amend the Electricity Act, 2003.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Electricity (Amendment) Act, 2007.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Substitution of new section for section 6.*—For section 6 of the Electricity Act, 2003 (36 of 2003) (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

“6. *Joint responsibility of State Government and Central Government in rural electrification.*—The concerned State Government and the Central Government shall jointly endeavour to provide access to electricity to all areas including villages and hamlets through rural electricity infrastructure and electrification of households.”.

3. *Amendment of section 9.*—In section 9 of the Principal Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that no licence shall be required under this Act for supply or electricity generated from a captive generating plant to any licensee in accordance with the provisions of this Act and the rules and regulations made thereunder and to any consumer subject to the regulations made under sub-section (2) of section 42.”.

4. *Amendment of section 38.*—In section 38 of the Principal Act, in sub-section (2), in clause (d),—

- (i) in the second proviso, the words “and eliminated” shall be omitted;
- (ii) the third proviso shall be omitted.

5. *Amendment of section 39.*—In section 39 of the Principal Act, in sub-section (2), in clause (d),—

- (i) in the second proviso, the words “and eliminated” shall be omitted;
- (ii) the third proviso shall be omitted.

6. *Amendment of section 40.*—In section 40 of the Principal Act,—

- (i) in the second proviso, the words “and eliminated” shall be omitted;
- (ii) the third proviso shall be omitted.

7. *Amendment of section 42.*—In section 42 of the Principal Act, in sub-section (2),—

(i) in the first proviso, for the words “such open access may be allowed before the cross-subsidies are eliminated on payment of a surcharge”, the words “such open access shall be allowed on payment of a surcharge” shall be substituted;

(ii) in the third proviso, the words “and eliminated” shall be omitted.

8. *Amendment of section 43.*—In section 43 of the Principal Act, in sub-section (1),—

(i) for the words “Every distribution”, the words “Save as otherwise provided in this Act, every distribution” shall be substituted;

(ii) after the second proviso, the following Explanation shall be inserted namely:—

‘Explanation.—For the purposes of this sub-section, “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.’.

9. *Substitution of new section for section 50.*—For section 50 of the principal Act, the following section shall be substituted, namely:—

“50. *The electricity supply code.*—The State Commission shall specify an electricity supply code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, measures for preventing tampering, distress or damage to electrical plant or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters.”.

10. *Amendment of section 61.*—In section 61 of the Principal Act, for clause (g), the following clause shall be substituted, namely:—

‘(g) that the tariff progressively reflects the cost of supply of electricity and also reduces cross-subsidies in the manner specified by the Appropriate Commission;’.

11. *Amendment of section 126.*—In section 126 of the Principal Act,—

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The person, on whom an order has been served under sub-section (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment, of the electricity charges payable by such person.”;

(ii) in sub-section (4), the proviso shall be omitted;

(iii) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of electricity has taken place and if, however, the period during which such unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceeding the date of inspection.”;

(iv) in sub-section (6), for the words “one-and-half times”, the word “twice” shall be substituted;

(v) in the explanation occurring at the end, in clause (b), for sub-clause (iv), the following sub-clauses shall be substituted, namely:—

“(iv) for the purpose other than for which the usage of electricity was authorised; or

(v) for the premises or areas other than those for which the supply of electricity was authorised.”.

12. *Amendment of section 127.*—In section 127 of the Principal Act, in sub-section (2), for the words “one-third of the assessed amount”, the words “half of the assessed amount” shall be substituted.

13. *Amendment of section 135.*—In section 135 of the Principal Act,—

(A) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Whoever, dishonestly,—

(a) taps, make or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier, as the case may be; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted ; or

(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity ; or

(d) uses electricity through a tampered meter ; or

(e) uses electricity for the purpose other than for which the usage of electricity was authorised, so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both :

Provided that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use—

(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity ;

(ii) exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity :

Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station :

Provided also that if it is proved that any artificial means or means not authorised by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity :

Provided that only such officer of the licensee or supplier, as authorised for the purpose by the Appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorised shall disconnect the supply line of electricity :

Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty-four hours from the time of such disconnection :

Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.”;

(B) in sub-section (2), for the words “Any officer authorised”, the words “any officer of the licensee or supplier as the case may be, authorised” shall be substituted.

14. *Amendment of section 150.*—In section 150 of the principal Act, after sub-section (2), the following shall be inserted, namely:—

‘(3) Notwithstanding anything contained in sub-section (1) of section 135, sub-section (1) of section 136, section 137 and section 138, the licence or certificate of competency or permit or such other authorisation issued under the rules made or deemed to have been made under this Act to any person who acting as an electrical contractor, supervisor or worker abets the commission of an offence punishable under sub-section (1) of section 135, sub-section (1) of section 136, section 137, or section 138, on his conviction for such abetment, may also be cancelled by the licensing authority :

Provided that no order of such cancellation shall be made without giving such person an opportunity of being heard.

Explanation.—For the purposes of this sub-section, “licensing authority” means the officer who for the time being in force is issuing or renewing such licence or certificate of competency or permit or such other authorisation.’.

15. *Amendment of section 151.*—In section 151 of the principal Act, the following provisions shall be inserted, namely:—

“Provided that the court may also take cognizance of an offence punishable under this Act upon a report of a police officer filed under section 173 of the Code of Criminal Procedure, 1973: (2 of 1974).

Provided further that a special court constituted under section 153 shall be competent to take cognizance of an offence without the accused being committed to it for trial.”.

16. *Insertion of new sections 151A and 151B.*—After section 151 of the principal Act the following sections shall be inserted, namely :—

151A. *Power of police to investigate.*—For the purposes of Investigation of an offence punishable under this Act, the police officer shall have all the powers as provided in Chapter XII of the Code of Criminal Procedure, 1973. (2 of 1974).

151B. *Certain offences to be cognizable and non-bailable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) an offence punishable under sections 135 to 140 or section 150 shall be cognizable and non-bailable.”.

17. *Amendment of section 153.*—In section 153 of the principal Act, in sub-section (1), for the words and figures “sections 135 to 139”, the words and figures “sections 135 to 140 and sections 150” shall be substituted.

18. *Amendment of section 154.*—In section 154 of the principal Act,—

(i) for the words and figures “sections 135 to 139”, wherever they occur, the words and figures “section 135 to 140 and section 150” shall be substituted ;

(ii) in sub-section (5), for the words “Special Court may” the words “Special Court shall” shall be substituted.

19. *Amendment of section 176.*—In section 176 of the principal Act, in clause (2), in clause (b), for the brackets and words “(including the capital adequacy, credit worthiness or code of conduct)”, the words “relating to the capital adequacy, credit worthiness or code of conduct” shall be substituted.

20. *Amendment of section 178.*—In section 178 of the principal Act, in sub-section (2),—

(i) in clause (k), the words “and elimination” shall be omitted ;

(ii) in clause (m), the words “and elimination” shall be omitted ;

(iii) for clause (r), the following clause shall be substituted, namely :—

“(r) the manner for reduction of cross-subsidies under clause (g) of section 61;”.

21. *Amendment of section 181.*—In section 181 of the principal Act, in sub-section (2),—

- (i) in clause (j), the words “and elimination” shall be omitted ;
- (ii) in clause (m), the words “and elimination” shall be omitted ;
- (iii) in clause (p), the words “and elimination” shall be omitted ;
- (iv) for clause (zc), the following clause shall be substituted, namely:—

“(zc) the manner of reduction of cross-subsidies under clause (g) of section 61;”.
